

## REMARKS

### **CLAIM AMENDMENTS**

Applicant amends the independent manufacture claim and system claim to conform to amendments made earlier to the method claim. Applicant amends claim 1 to address an ambiguity that arises because “extents” is used both in the fifth and sixth paragraphs of the claim.

Applicant further amends selected dependent claims to correct minor grammatical errors.

### **SECTION 103 REJECTION OF CLAIMS 1, 9 AND 17**

The Office rejects claim 1 as being rendered obvious by the combination of *Visser*<sup>1</sup> and *Spielmann*.<sup>2</sup>

#### ***Visser* fails to teach “enterprise elements”**

Claim 1 refers to “enterprise elements.” It is therefore important to construe how one of ordinary skill in the art would have construed the term “enterprise element” after having read the specification.

The grammatical structure of “enterprise element” would have led one of ordinary skill in the art to construe it to mean an element of an enterprise. Thus, to one of ordinary skill in the art who has read the specification, the term “enterprise element” would not have meant *any* element whatsoever. Instead, it would have been restricted to mean an “element” that is a *constituent part* of an “enterprise.”

*Visser* discloses a system that communicates to a user that one or more “elements” fail to comply with a rule. These “elements” are not “enterprise elements.” Instead, these elements are various pieces of equipment that might be used by an enterprise in the course of conducting its business. These pieces of equipment, while they

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<sup>1</sup> *Visser et al.*, US 2003/0153991, filed 7/22/2002.

<sup>2</sup> *Spielmann et al.*, US Patent No. 7,113,914, filed 4/7/2000.

are certainly *used* by the enterprise, are certainly not *constituent elements* of the enterprise itself.

By way of analogy, a human being may use a key to unlock a door. But nobody would seriously suggest that the key is in any way a *constituent element* of the human being. In the same way, the boilers and protective equipment that *Visser's* entities employ to carry out their operations are not themselves constituent elements of those entities.

The Office appears to regard *Visser's* "entities" as corresponding to the claim's "enterprise," and *Visser's* "elements" as corresponding to the claim's "enterprise elements."

However, as noted above, *Visser's* elements, although they are used by *Visser's* entities during the course of their business or operation, are not themselves constituent parts of those entities. Therefore, they cannot properly be regarded as "enterprise elements" as that term would have been understood by one of ordinary skill in the art who has read Applicant's specification.

***Spielmann* fails to teach compliance scores of enterprise elements**

*Spielmann* teaches assigning a compliance score to a control procedure. Thus, the Examiner appears to be equating *Spielman's* control procedures with claim 1's enterprise elements.

To determine whether a "control procedure" is in fact an "enterprise element," i.e., a constituent part of an enterprise, it is useful to inspect FIG. 4.

As shown in FIG. 4, one example of a "control procedure" is a business-interruption plan for recovering data in the event of a computer service interruption. A business-interruption plan may certainly be *used* by an enterprise. But it is certainly not a *constituent part* of the enterprise.

***Spielmann* fails to teach assigning compliance scores to rule associations**

Claim 1 requires assigning compliance scores to rule associations.

In *Spielmann*, compliance scores are assigned to “control procedures.” But a “control procedure” is not the same as a “rule association.”

According to Applicant’s specification, a “rule association” defines “which rules from the rules knowledge-base **14** are to be associated with which enterprise elements from the enterprise knowledge-base **12**.”<sup>3</sup> *Spielmann*’s “control procedures” do not have this property.

**Visser fails to teach “enterprise knowledge-base”**

As best understood, the Office regards claim 1’s limitation of “providing an enterprise knowledge-base containing information representative of enterprise elements” as being met by database **22b** in *Visser*’s FIG. 1A.

Applicant submits that one of ordinary skill in the art who has read the specification would not have regarded database **22b** as containing information representative of “enterprise elements” as that term is used in the specification.

One of ordinary skill in the art who was reading the *Visser* specification would have endeavored to ascertain what precisely Visser meant by “element.” In so doing, he would have seen paragraph 3’s description of an “element” as “tasks” or “pieces of equipment.” Specifically, one of ordinary skill in the art would have learned that:

“the entity is often charged with the duty to monitor data that is characteristic of a task or of a piece of equipment and further to assess whether the characteristic data of *such an element* is within acceptable parameters of one or more applicable rules”<sup>4</sup>

One of ordinary skill in the art would also have appreciated *Visser*’s distinction between an “entity” and an “element.” Specifically, one of ordinary skill in the art would have read the following passage from *Visser*:

A compliance management system aids an entity in managing aspects of its operations or business that are subject to criteria, rules or regulations, collectively referred to herein as rules. The rules may be varied and fluid. More particularly, an entity implementing such a system is directed to

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<sup>3</sup> Megley, US 2005/0066021, Paragraph 29.

<sup>4</sup> *Visser*, paragraph 3.

achieve compliance if at all possible. An entity can include an individual, a business or some form of organization. The present invention provides apparatus and methodology for monitoring these aspects and assisting the entity in ensuring continued compliance and compel correction should an element of their operation or business become out of compliance.<sup>5</sup>

From the foregoing paragraph, one of ordinary skill in the art would have understood that Visser had already chosen the word “entity” to refer to the elements of an enterprise. He would have regarded it as unlikely that Visser intended to use two words, “entity” and “element,” to both refer to the same thing” elements of an enterprise. From this, he would have concluded that Visser intended the word “element” to refer to something *other than* the elements of an enterprise.

To confirm his understanding of what *Visser* meant by the word “element,” one of ordinary skill in the art would have searched for examples. In doing so, one of ordinary skill in the art would have found “element” used to mean: a storage tank in a refinery, a centrifuge in a laboratory, reagent materials in a laboratory, and student assignments, such as lab reports. None of these examples would have given one of ordinary skill in the art any reason to think that *Visser* contemplated “element” as meaning the constituent elements of an enterprise.

In an effort to confirm his understanding of what exactly is in database **22b** of FIG. 1A, one of ordinary skill in the art would have tried to understand precisely how data enters database **22b**. In doing so, one of ordinary skill in the art would have discovered that the handheld device **35** shown in *Visser*’s FIG. 1A collects data about elements and provides that data to database **22b**.<sup>6</sup>

One of ordinary skill in the art who viewed Applicant’s claim 1 would have turned to Applicant’s specification to understand what sort of data the “enterprise knowledge-base” contains. According to the specification, an “enterprise knowledge-base includes “information descriptive of the enterprise whose regulatory compliance is

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<sup>5</sup> *Visser*, paragraph 34.

<sup>6</sup> *Visser*, paragraph 45.

sought.” One of ordinary skill in the art would have understood that this was plainly inconsistent with the type of data stored in *Visser*’s database **22b**.

Applicant recognizes that Visser used the word “element” throughout his specification. Applicant also recognizes that the word “element” is used in the claims. However, the patent examination process requires a search *for the claimed invention*, and not a search for *words used to claim* the invention. It would have been plain to one of ordinary skill in the art that *Visser* is concerned with compliance of certain pieces of equipment used by an enterprise with certain rules. It has nothing to do with compliance of the “enterprise elements” themselves.

*Spielmann* fails to remedy the foregoing deficiency in the teaching of *Visser*. Accordingly, the section 103 rejection of claim 1 and all its progeny is improper.

***Visser* fails to teach first and second sets of rule associations**

Claim 1 requires defining separate and distinct sets of rule associations between subsets of applicable rules and subsets of elements. Specifically, claim 1 recites:

defining a first set of rule associations between a first subset of the applicable rules and a first subset of the enterprise elements;

and

defining a second set of rule associations between a second subset of the applicable rules and a second subset of the enterprise elements,

The Office suggests that these claim limitations are disclosed in paragraphs 53 and 63 of *Visser*.

Paragraph 53 describes how one entity might monitor several elements and another entity might monitor several other elements.

According to paragraph 53, there exist certain elements that, for some reason, escape notice completely. These entities are not monitored by any entity whatsoever.

*Visser* addresses this difficulty by designating any such unmonitored elements as being out of compliance.

The fact that unmonitored elements are regarded as not being compliant plainly has nothing to do with claim 1's limitation of defining sets of rule associations between subsets of the applicable rules and subsets of enterprise elements.

Paragraph 63 describes when rules are to be applied. In particular, paragraph 63 describes how a timing system 28 periodically triggers the application of rules.

The fact that rules are periodically applied, rather than, for example, being applied at sporadic, random times, plainly has nothing whatsoever to do with rule associations between subsets of applicable rules and subsets of enterprise elements. Therefore, the disclosure of periodically applying rules has nothing to do with the claim limitations.

*Visser* plainly fails to disclose the foregoing limitation. *Spielmann* fails to remedy this deficiency in the teaching of *Visser*. Accordingly, the section 103 rejection of claim 1 and its progeny is improper.

***Visser* fails to teach assigning compliance scores to rule associations**

In the office action issued on 11/28/2008, the Office conceded *Visser*'s failure to teach "assigning compliance scores" to both sets of rule associations. To remedy this deficiency, the Office cited *Lineman*.

In the present action, the Office has changed its position. Specifically, the Office now takes the position that *Visser*'s paragraph 53 discloses "assigning compliance scores" to both sets of rule associations.

According to paragraph 53, *Visser* designates unmonitored elements as being not in compliance. It does so by assigning a default compliance score to the unmonitored element.

Claim 1, however, recites assigning compliance scores *to rule associations*. This is not what paragraph 53 discloses.

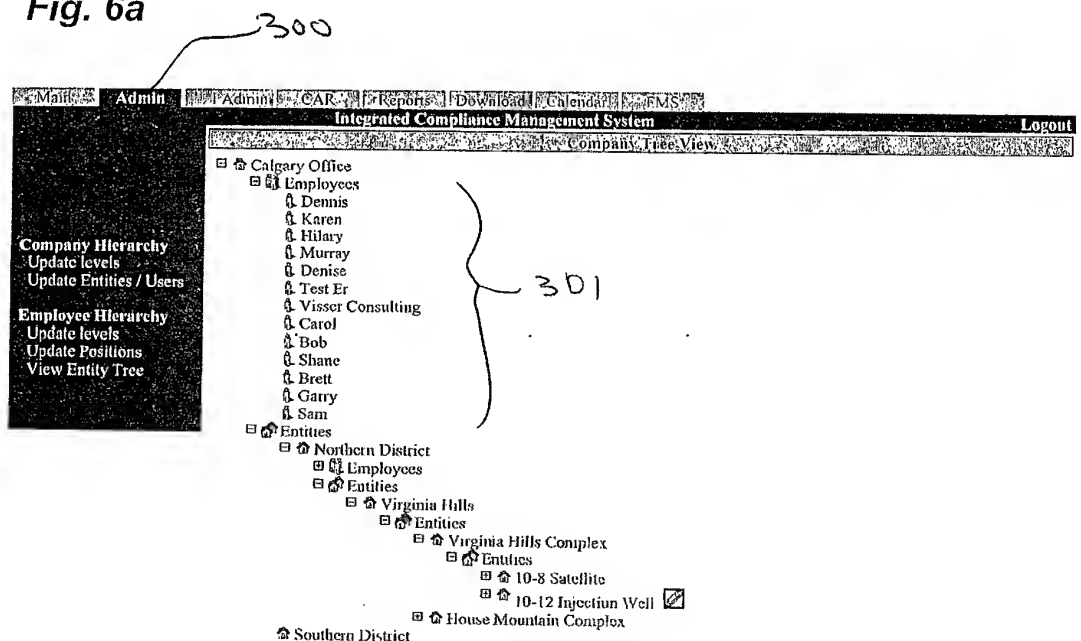
Claims 9 and 17 recite limitations similar to claim 1 and are patentable for at least the reasons set forth above.

### Section 103 Rejection of Claims 3 and 20

Claim 3 recites the limitation that displaying a tree view of an enterprise knowledge base comprises displaying “a compliance indicator in association with an enterprise element, the compliance indicator being indicative of a compliance score associated with the enterprise element.”

The Office evidently regards *Visser’s* FIG. 6A as displaying the tree view recited in claim 2. However, it is apparent that nothing in FIG. 6A (see *infra*) amounts to a “compliance indicator” as recited in claim 3.

**Fig. 6a**



The Office also draws attention to paragraph 53 as disclosing the claim limitation. But paragraph 53 merely describes designating certain unmonitored elements as non-compliant by assigning to them a default compliance score. There is no suggestion that these scores are ever translated into a “compliance indicator” for display in FIG. 6A. Accordingly, there is no disclosure in *Visser* of the additional limitation of claim 3.

*Spielmann* likewise fails to disclose the foregoing deficiency in claim 3. Accordingly, the combination of *Visser* and *Spielmann* would fail to disclose each and every element of claim 3. The section 103 rejection of claim 3 is therefore improper and should be withdrawn.

Claim 20 includes limitations similar to claim 3 and is therefore patentable for at least the same reasons as claim 3.

#### **Section 103 Rejection of Claim 8, 16, and 24**

Applicant’s specification describes “a citation process **24** for enabling the compliance officer to create rule associations between applicable rules and an enterprise element.” Applicant’s specification also describes “an evaluation process **26** for enabling a compliance officer to assign a compliance score to each rule association to indicate the extent to which the enterprise element complies with the applicable rules.” These terms have therefore been explicitly defined in the specification.

Claim 8 recites the additional limitation of a GUI for controlling the citation and evaluation processes as defined above.

The Office asserts that *Visser*’s FIGS. 3A-3F disclose a GUI for controlling both the citation process and evaluation process, as recited in claim 8.

FIGS. 3A-3D appear to disclose a GUI for maintaining a “to-do” list of certain tasks that are required to bring certain elements into compliance. For example, FIG. 3D is a reminder that tanks must be checked, and a note saying that placing oatmeal in the tank helped in some way. This has nothing to do with compliance scores or rule associations.



FIG. 3C, which refers to painting a fence, is equally irrelevant. FIG. 3A is just an entry point to a list of corrective actions that need to be taken, i.e. a “to-do” list. There is no mention of anything like a compliance score or a rule association between rules and enterprise elements. FIG. 3B refers to a rule about “berming” a lease. This again has nothing to do with compliance scores or rule associations between rules and enterprise elements.

It is apparent therefore that FIGS. 3A-3D are utterly irrelevant to the additional limitation of claim 8.

As for FIGS. 3E-3F, these figures do not appear to exist in the cited art. Nor does the specification identify them in the list of figures.

The Office further asserts that paragraphs 63-64 and 106 disclose the claim limitation.

The cited paragraphs 63-64 and 106 do not disclose anything remotely like a GUI for controlling a citation process and an evaluation process as those terms are defined in the specification.

Paragraphs 63-64 describe when rules are to be applied. In particular, paragraph 63 describes how a timing system **28** periodically triggers the application of rules. Paragraph 64 describes applying the rules in response to a change in the rules. Trigger events for triggering application of a rule have nothing to do with compliance scores assigned through a compliance process. Nor do they have anything to do with creating rule associations between rules and enterprise elements.

Paragraph 106 describes the system shown in FIG. 7 in general terms. It does not refer in any way to either compliance scores or rule associations between rules and enterprise elements.

It is apparent therefore that the primary references fails to teach anything to do with the additional limitation of claim 8. Nor is any such teaching present in the secondary reference. Accordingly, the section 103 rejection of claim 8 is improper and should be withdrawn.

Claims 16 and 24 have limitations similar to claim 8 and are patentable for at least the same reasons.

**Section 103 Rejection of Claim 7, 15, and 23**

Claim 7 recites the additional limitation of “associating remediation policies with” rule associations between “applicable rules and the enterprise elements.”

The Office asserts that paragraphs 63-64 and 106 of *Visser* disclose “associating remediation policies.”

Paragraphs 63-64 describes when rules are to be applied. In particular, paragraph 63 describes how a timing system 28 periodically triggers the application of rules. Paragraph 64 describes applying the rules in response to a change in the rules. Trigger events triggering application of rules have nothing to do with associating remediation policies with anything.

Paragraph 106 describes the system shown in FIG. 7 in general terms. It does not describe anything remotely like associating remediation policies with rule associations between applicable rules and enterprise elements as required by the claim.

It is apparent therefore that the *Visser* fails to teach anything to do with the additional limitation of claim 7. Nor is any such teaching present in the secondary reference. Accordingly, the section 103 rejection of claim 7 is improper and should be withdrawn.

Claims 15 and 23 include limitations similar to claim 7 and are patentable for at least the same reasons.

### **Section 103 Rejection of Claims 3 and 20**

Claim 3 recites the limitation that graphically displaying compliance scores includes “displaying a cardinality of rule associations having a selected range of compliance scores.”

The Office states that this limitation is disclosed in paragraphs 29 and 77 of *Visser*.

Paragraph 29 reads as follows:

FIGS. 4a-4f are screen images of a compliance calendar computer interface for displaying the compliance status of a plurality of elements and for adding additional corrective action events;

The claim does not recite a “calendar computer interface.” It recites displaying a cardinality of rule associations having a selected range of compliance scores. Nothing in the foregoing text remotely sounds like displaying a cardinality of rule associations having a selected range of compliance scores.

The figures referred to include figures showing a calendar that lists certain tasks to be performed, and various user interfaces associated with such a calendar. The claim limitation has nothing to do with a calendar. The claim limitation recites displaying a cardinality of rule associations having a selected range of compliance scores. Nothing in the figures appears remotely like a selected range of compliance scores.

Paragraph 77 reads as follows:

[0077] Computerized notification systems are well known to those skilled in the art and can make their notifications in a wide variety of ways, including displaying the notifications on a screen, creating a printout, or sending an email. In a preferred embodiment the notification system 26 of the present invention is incorporated in the CAR 178 that includes, among other things, element or characteristics summaries, notifications and emails.

The foregoing paragraph describes computerized notification systems that display or otherwise communicate a notification to a user. It does not describe displaying a cardinality of rule associations having a selected range of compliance scores.

It is apparent therefore that neither the cited portions of *Visser*, nor anything else in *Visser* for that matter, disclose displaying a cardinality of rule associations having a selected range of compliance scores. *Spielmann* does nothing to remedy *Visser*'s failure to disclose the limitations of claim 3. As a result, the section 103 rejection of the claim is improper and should be withdrawn.

Claim 20 recites limitations similar to claim 3 and is patentable for at least the same reasons.

#### **Section 103 Rejection of Claim 4**

Claim 4 recites the limitation that graphically displaying compliance scores assigned to rule associations between rules and enterprise elements includes displaying a histogram chart of a cardinality of rule associations having each of a plurality of ranges of compliance scores.

The Office draws attention to *Visser*'s paragraphs 29 and 106 as teaching this claim limitation.

Paragraph 29 discloses a "calendar computer interface":

FIGS. 4a-4f are screen images of a compliance calendar computer interface for displaying the compliance status of a plurality of elements and for adding additional corrective action events;

Claim 4 does not recite a "calendar computer interface." It recites displaying a histogram chart of "a cardinality of rule associations having each of a plurality of ranges of compliance scores." Nothing in paragraph 29 remotely sounds like displaying a cardinality of rule associations having a selected range of compliance scores. Nor do FIGS. 4A-4F, to which the text refers, disclose anything that remotely resembles a histogram chart, let alone a "histogram chart of a cardinality of rule associations having each of a plurality of ranges of compliance scores."

Paragraph 106 describes the system shown in FIG. 7 in general terms. It does not appear to refer to histogram charts at all. Hence, paragraph 106 is completely irrelevant to the claim limitation.

The Office further draws attention to FIGS. 6 and 7 of *Spielmann*. These figures show bar charts. The Office presumably regards these as histograms because histograms often use vertical bars to indicate the number of values within a particular range of values.

Applicant agrees that some histograms are bar charts. But not all bar charts are histograms. In particular, the bar charts shown in FIGS. 6 and 7 are *not* histograms.

Applicant points out that the horizontal axes of FIGS. 6 and 7 are *not* ranges of compliance scores. Claim 4 requires that the histogram chart display “a cardinality of rule associations having each of a plurality of ranges of compliance scores.” There are no “compliance scores” shown in FIGS. 6 and 7. Therefore, those figures do not disclose the claim limitation.

### **Section 103 Rejection of Claim 2, 10, and 18**

Claim 2 requires the “graphically displaying the compliance scores.”

The Office states that *Visser* discloses graphically displaying compliance scores at paragraphs 29 and 106.

Both the foregoing paragraphs mention displaying “compliance status”. But that is not what the claim recites. Information that indicates whether or not an element is in compliance is *not* the same as information about an element’s compliance score.

FIGS. 3A-3F, which are referred to in cited paragraph 106, disclose, for example, that a fence needs painting or that a tank needs to be checked. But one cannot determine the compliance score of either the fence or the tank. Hence, these figures do not disclose “graphically displaying the compliance scores” assigned to rule associations between rules and enterprise elements, as required by claim 2.

*Spielmann* does nothing to remedy this deficiency in the disclosure of *Visser*. Accordingly the section 103 rejection of claim 2 is improper and should be withdrawn.

Applicant(s) : Sean M. Megley  
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Claims 10 and 18 include limitations similar to claim 2 and are patentable for at least the same reasons.

#### SUMMARY

Now pending in this application are claims 1-24 of which claims 1, 9, and 17 are independent. Applicant requests an extension of one month pursuant to Rule 1.136.

Please charge the extension fee to our deposit account identified below.

No additional fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our Deposit Account No. 50-4189, referencing Attorney Docket No. 30063-002001.

Respectfully submitted,

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Faustino A. Lichauco  
Reg. No. 41,942

Customer No. 69713  
Occhiuti Rohlicek & Tsao LLP  
10 Fawcett Street  
Cambridge, MA 02138  
Telephone: (617) 500-2533  
Facsimile: (617) 500-2499  
99072.doc